

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

ALINA GAIL ROMAN

Registered Nurse License Applicant

Respondent

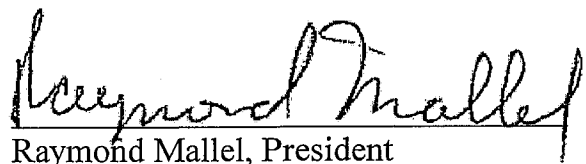
Case No. 2013-130

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **March 8, 2013**.

IT IS SO ORDERED **February 7, 2013**.

A handwritten signature in black ink, appearing to read "Raymond Mallel", is written over a horizontal line.

Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336

AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. 2013-130

13 **ALINA GAIL ROMAN**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Registered Nurse License Applicant**

15 Respondent.
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
21 Registered Nursing. She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Amanda Dodds,
23 Senior Legal Analyst.

24 2. Alina Gail Roman (Respondent) is representing herself in this proceeding and has
25 chosen not to exercise her right to be represented by counsel.

26 3. On or about October 27, 2011, Respondent filed an application dated October 10,
27 2010, with the Board of Registered Nursing to obtain a Registered Nurse License.

28 ///

JURISDICTION

4. Statement of Issues No. 2013-130 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on September 4, 2012. Statement of Issues No. 2013-130 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2013-130. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2013-130.

9. Respondent agrees that her Registered Nurse License application is subject to denial and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of

1 Registered Nursing may communicate directly with the Board regarding this stipulation and
2 settlement, without notice to or participation by Respondent. By signing the stipulation,
3 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
4 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
5 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
6 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
7 between the parties, and the Board shall not be disqualified from further action by having
8 considered this matter.

9 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
10 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
11 effect as the originals.

12 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
13 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
14 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
15 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
16 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
17 writing executed by an authorized representative of each of the parties.

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following
20 Disciplinary Order:

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that the application of Respondent Alina Gail Roman for
23 licensure is hereby granted. Upon successful completion of the licensure examination and all
24 other licensing requirements, a license shall be issued to Respondent. Said license shall
25 immediately be revoked, the order of revocation stayed and Respondent placed on probation for a
26 period of four (4) years on the following conditions:

27 **Severability Clause.** Each condition of probation contained herein is a separate and
28 distinct condition. If any condition of this Order, or any application thereof, is declared

unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed

1 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
2 information regarding the status of each license and any changes in such license status during the
3 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
4 license during the term of probation.

5 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
6 or cause to be submitted such written reports/declarations and verification of actions under
7 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
8 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
9 Respondent shall immediately execute all release of information forms as may be required by the
10 Board or its representatives.

11 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
12 state and territory in which she has a registered nurse license.

13 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
14 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
15 6 consecutive months or as determined by the Board.

16 For purposes of compliance with the section, "engage in the practice of registered nursing"
17 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
18 non-direct patient care position that requires licensure as a registered nurse.

19 The Board may require that advanced practice nurses engage in advanced practice nursing
20 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

21 If Respondent has not complied with this condition during the probationary term, and
22 Respondent has presented sufficient documentation of her good faith efforts to comply with this
23 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
24 extension of Respondent's probation period up to one year without further hearing in order to
25 comply with this condition. During the one year extension, all original conditions of probation
26 shall apply.

27 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
28 prior approval from the Board before commencing or continuing any employment, paid or

1 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
2 performance evaluations and other employment related reports as a registered nurse upon request
3 of the Board.

4 Respondent shall provide a copy of this Decision to her employer and immediate
5 supervisors prior to commencement of any nursing or other health care related employment.

6 In addition to the above, Respondent shall notify the Board in writing within seventy-two
7 (72) hours after she obtains any nursing or other health care related employment. Respondent
8 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
9 separated, regardless of cause, from any nursing, or other health care related employment with a
10 full explanation of the circumstances surrounding the termination or separation.

11 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
12 Respondent's level of supervision and/or collaboration before commencing or continuing any
13 employment as a registered nurse, or education and training that includes patient care.

14 Respondent shall practice only under the direct supervision of a registered nurse in good
15 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
16 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
17 approved.

18 Respondent's level of supervision and/or collaboration may include, but is not limited to the
19 following:

20 (a) Maximum - The individual providing supervision and/or collaboration is present in
21 the patient care area or in any other work setting at all times.

22 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
23 care unit or in any other work setting at least half the hours Respondent works.

24 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
25 person communication with Respondent at least twice during each shift worked.

26 (d) Home Health Care - If Respondent is approved to work in the home health care
27 setting, the individual providing supervision and/or collaboration shall have person-to-person
28 communication with Respondent as required by the Board each work day. Respondent shall

maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

///

1 **11. Violation of Probation.** If Respondent violates the conditions of her probation, the
2 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
3 and impose the stayed revocation of Respondent's license.

4 If during the period of probation, an accusation or petition to revoke probation has been
5 filed against Respondent's license or the Attorney General's Office has been requested to prepare
6 an accusation or petition to revoke probation against Respondent's license, the probationary
7 period shall automatically be extended and shall not expire until the accusation or petition has
8 been acted upon by the Board.

9 **12. License Surrender.** During Respondent's term of probation, if she ceases practicing
10 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
11 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
12 Respondent's request and to exercise its discretion whether to grant the request, or to take any
13 other action deemed appropriate and reasonable under the circumstances, without further hearing.
14 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
15 subject to the conditions of probation.

16 Surrender of Respondent's license shall be considered a disciplinary action and shall
17 become a part of Respondent's license history with the Board. A registered nurse whose license
18 has been surrendered may petition the Board for reinstatement no sooner than the following
19 minimum periods from the effective date of the disciplinary decision:

20 (1) Two years for reinstatement of a license that was surrendered for any reason other
21 than a mental or physical illness; or

22 (2) One year for a license surrendered for a mental or physical illness.

23 **13. Physical Examination.** Within 45 days of the effective date of this Decision,
24 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
25 assistant, who is approved by the Board before the assessment is performed, submit an
26 assessment of the Respondent's physical condition and capability to perform the duties of a
27 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
28 medically determined, a recommended treatment program will be instituted and followed by the

Respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

14. Participate in Treatment/Rehabilitation Program for Chemical Dependence.

Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

///

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.

If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. Abstain from Use of Psychotropic (Mood-Altering) Drugs. Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. Submit to Tests and Samples. Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The

length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times.

Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

17. **Mental Health Examination.** Respondent shall, within 45 days of the effective date of this Decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of Respondent.

1 Recommendations for treatment, therapy or counseling made as a result of the mental health
2 examination will be instituted and followed by Respondent.

3 If Respondent is determined to be unable to practice safely as a registered nurse, the
4 licensed mental health care practitioner making this determination shall immediately notify the
5 Board and Respondent by telephone, and the Board shall request that the Attorney General's
6 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
7 practice and may not resume practice until notified by the Board. During this period of
8 suspension, Respondent shall not engage in any practice for which a license issued by the Board
9 is required, until the Board has notified Respondent that a mental health determination permits
10 Respondent to resume practice. This period of suspension will not apply to the reduction of this
11 probationary time period.

12 If Respondent fails to have the above assessment submitted to the Board within the 45-day
13 requirement, Respondent shall immediately cease practice and shall not resume practice until
14 notified by the Board. This period of suspension will not apply to the reduction of this
15 probationary time period. The Board may waive or postpone this suspension only if significant,
16 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
17 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
18 Only one such waiver or extension may be permitted.

19 **18. Therapy or Counseling Program.** Respondent, at her expense, shall participate in
20 an on-going counseling program until such time as the Board releases her from this requirement
21 and only upon the recommendation of the counselor. Written progress reports from the counselor
22 will be required at various intervals.

23 **19. Specialized Conditional Language: Other Board or Regulatory Orders.** If
24 Respondent is subject to concurrent disciplinary order(s) from any other health-care related board
25 or any professional licensing or certification regulatory agency, and violates the order(s), this
26 shall be deemed a violation of probation and may result in the filing of an Accusation and/or
27 Petition to Revoke Probation.

28 ///

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 10/16/12 Alina Roman
ALINA GAIL ROMAN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 11/21/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Amanda Dodds
AMANDA DODDS
Senior Legal Analyst
Attorneys for Complainant

SD2012703352

Exhibit A

Statement of Issues No. 2013-130

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No.

2013-130

13 **ALINA GAIL ROMAN**

STATEMENT OF ISSUES

14 **Registered Nurse License Applicant**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 27, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Alina Gail Roman
24 (Respondent). On or about October 10, 2010, Alina Gail Roman certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on March 21, 2012.

27 ///

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

6

7 7. Section 482 of the Code states:

8 Each board under the provisions of this code shall develop criteria to evaluate
9 the rehabilitation of a person when:

10 (a) Considering the denial of a license by the board under Section 480; or

11 (b) Considering suspension or revocation of a license under Section 490.

12 Each board shall take into account all competent evidence of rehabilitation
13 furnished by the applicant or licensee.

14 8. Section 2761 of the Code states:

15 The board may take disciplinary action against a certified or licensed nurse or
16 deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the
18 following:

19

20 (4) Denial of licensure, revocation, suspension, restriction, or any
21 other disciplinary action against a health care professional license or certificate by
22 another state or territory of the United States, by any other government agency, or by
23 another California health care professional licensing board. A certified copy of the
24 decision or judgment shall be conclusive evidence of that action.

25

26 (f) Conviction of a felony or of any offense substantially related to the
27 qualifications, functions, and duties of a registered nurse, in which event the record of
28 the conviction shall be conclusive evidence thereof.

....

9. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere
made to a charge substantially related to the qualifications, functions and duties of a
registered nurse is deemed to be a conviction within the meaning of this article. The
board may order the license or certificate suspended or revoked, or may decline to
issue a license or certificate, when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under the

provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444 states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

11. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

....

///

///

///

///

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(May 18, 2006 Criminal Conviction for Disturbing the Peace on April 18, 2006)**

3 12. Respondent's application is subject to denial under section 480, subdivisions (a)(1),
4 (a)(2) and (a)(3)(A), and 2761, subdivision (f) of the Code in that she was convicted of a crime
5 that is substantially related to the qualifications, duties, and functions of a registered nurse. The
6 circumstances are as follows:

7 a. On or about May 18, 2006, in the criminal proceeding entitled *The State of*
8 *Nevada vs. Alina Gail Roman*, case number SJC 06-905, Respondent was convicted on her plea
9 of guilty to an amended charge of violating WCC 53.140, disturbing the peace, a misdemeanor.

10 b. As a result of the conviction, on or about May 25, 2006, Respondent was
11 sentenced to 180 days in the Washoe County Jail, suspended. Respondent was ordered to attend
12 NA/AA meetings, complete a Level III Alcohol Drug Treatment Program, and abstain from
13 alcohol and drugs. After failing to appear at a review hearing on October 6, 2006, a bench
14 warrant was issued for Respondent's arrest. After failing to enroll in a treatment program or
15 attend NA meetings, Respondent was referred to Alternative Sentencing. After Respondent
16 tested positive for a controlled substance, the court ordered Respondent to comply with probation
17 or the court would impose the suspended jail sentence of 180 days. After failing to comply with
18 her probation, on or about May 29, 2007, the court ordered Respondent to serve 180 days in jail,
19 with credit for time served.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(September 18, 2008 Criminal Conviction for Embezzlement on December 5, 2007)**

22 13. Respondent's application is subject to denial under section 480, subdivisions (a)(1),
23 (a)(2) and (a)(3)(A), and 2761, subdivision (f) of the Code in that she was convicted of a crime
24 that is substantially related to the qualifications, duties, and functions of a registered nurse. The
25 circumstances are as follows:

26 a. On or about September 18, 2008, after multiple failures to appear in the
27 criminal proceeding entitled *City of Sparks vs. Alina Gail Roman*, in Sparks (Nevada) Municipal
28 Court, case number 07C002443, Respondent was convicted on her plea of guilty to violating

1 Nevada Revised Statutes 205.300, embezzlement, a misdemeanor.

2 b. As a result of the conviction, on or about September 18, 2008, Respondent
3 was sentenced to 90 days in jail, suspended for six months, fined \$200, and ordered to complete
4 40 hours of community service.

5 c. The facts that led to the conviction are that on or about the morning of
6 December 7, 2007, while Respondent was working her first day as an associate at a Sparks,
7 Nevada K-Mart store, a loss prevention officer observed Respondent remove several snack items
8 from the food department; she then moved to the toy department where she unwrapped the
9 merchandise and concealed them in her jacket. Respondent was observed eating the snack items
10 over a 30-minute period. The loss prevention officer reported his findings to his supervisor. It
11 was decided that they would keep surveillance on Respondent to determine the extent of her
12 activities. At approximately 6:00 p.m., loss prevention officers observed Respondent select 6-8
13 books off the bookshelves in the stationary department and conceal them in a white jacket she had
14 placed over her right forearm. Respondent tied the books into her jacket and went to a customer
15 restroom. A few minutes later, Respondent emerged from the restroom without the jacket and
16 proceeded to the employee locker room. Loss prevention officers found Respondent's jacket and
17 the books in a trashcan in the bathroom. Respondent exited the employee locker room and
18 returned to the restroom. She exited a short time later with the same white jacket over her arm.
19 The loss prevention officers searched the bathroom after Respondent left and did not locate the
20 books. On December 9, 2007, shortly after Respondent started her shift, she was observed by
21 loss prevention selecting a fleece jacket in the ladies department, put it on, then go to the
22 women's restroom. While in the restroom, Respondent removed the sales tag from the jacket and
23 threw it in the trash. As Respondent returned to the front checkout, she selected and concealed a
24 bag of M&M candies in her pants pocket. While waiting to access her cash register, Respondent
25 was observed taking a \$5 dollar bill out of the cash tray and concealing it in her pants pocket. A
26 few minutes latter, Respondent was observed taking a pack of cigarettes off the shelf and
27 concealing them in her pants pocket. As Respondent attempted to leave the store, she was
28 intercepted by loss prevention officers and detained. An officer with the Sparks Police

1 Department questioned Respondent. Respondent admitted to stealing from her employer and
2 blamed her actions on her drug problem. The estimated value of the stolen merchandise was
3 \$200. Respondent was arrested for embezzlement.

4 **THIRD CAUSE FOR DENIAL OF APPLICATION**

5 **(Dishonest Acts)**

6 14. Respondent's application is subject to denial under sections 480, subdivision (a)(2) of
7 the Code in that on or about December 7 and December 9, 2007, Respondent committed acts of
8 involving dishonesty and deceit when she embezzled merchandise from her employer, as detailed
9 in paragraph 14, above.

10 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

11 **(Out of State Discipline on Nursing License)**

12 15. Respondent's application is subject to denial under section 2761, subdivision (a)(4) of
13 the Code in that Respondent's nursing license in the State of Nevada was disciplined. The
14 circumstances are as follows:

15 a. On or about March 17, 2005, the Nevada State Board of Nursing (Nevada
16 Board) entered into an Agreement for Probation as a result of Respondent's violation of Nevada
17 Revised Statutes and the Nevada Administrative Code. The basis for the probation was
18 Respondent's impairment on duty due to abuse of controlled substances for which she did not
19 have a legal prescription. Respondent was placed on probation with a limited/restricted status for
20 a term of two (2) years.

21 b. On or about September 5, 2005, the Nevada Board accepted the surrender of
22 Respondent's professional nurse license after she tested positive for controlled substances not
23 legally prescribed. Respondent freely admitted to the Nevada Board that she is addicted to
24 alcohol and/or controlled substances.

25 c. On or about September 15, 2011, the Nevada Board issued a Decision and
26 Order placing Respondent's professional nurse license on probation for a period of five (5) years
27 on certain terms and conditions which include the requirement that Respondent complete the
28 Nevada Nurse Practice Act course, abstain from drugs and alcohol, submit to a drug-screening

1 program, submit quarterly reports, accept limitations on employment, attend a mandatory
2 orientation, pay probation monitoring fees, and notify any other state nursing board or health care
3 regulatory agency of her probationary status.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Denying the application of Alina Gail Roman for a Registered Nurse License;
8 2. Taking such other and further action as deemed necessary and proper.

9
10 DATED: August 16, 2012

Louise R. Bailey
11 LOUISE R. BAILEY, M.ED., RN
12 Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
State of California
Complainant

15 SD2012703352
16
17
18
19
20
21
22
23
24
25
26
27
28